

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DISTRICT**

REGINALD BYRON CLEMONS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:22-cv-158-SRW
)	
MICHELLE BASHAM, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court upon review of the case file. In April 2022, the Court granted self-represented plaintiff Reginald Clemons' motion to proceed *in forma pauperis* in this 42 U.S.C. § 1983 civil rights action. Recently, after counsel entered an appearance for plaintiff Clemons, the Court granted Clemons' motion for leave to amend. A second amended complaint was filed on March 2, 2023, listing nine Missouri state prisoners as plaintiffs, including two plaintiffs who were previously struck from this action. As discussed in the Court's February 14, 2022 Order, multiple prisoner plaintiffs cannot jointly proceed *in forma pauperis* in an action. As such, the Court will order Plaintiffs to either file a motion to vacate plaintiff Clemons' *in forma pauperis* status and pay the remaining filing fee amount, or to file a notice with the Court clarifying that the prisoner Plaintiffs wish to proceed *in forma pauperis* in separate civil actions. Plaintiffs' response to the Court should be filed within fourteen (14) days of this Order.

Background

Prisoners Reginald Byron Clemons, Steven Stafford, and Wendell Harris initiated this action *pro se* in the United States District Court for the Western District of Missouri in January 2022. ECF No. 1. Because the events giving rise to the claims of the complaint occurred in the

Eastern District of Missouri, the case was transferred to this Court in February 2022. ECF Nos. 4-5.

Soon after transfer, the Court issued an Order explaining that multiple prisoner plaintiffs are not allowed to jointly proceed *in forma pauperis* in a civil action for several reasons, including because filing fees cannot be collected from multiple plaintiffs for one case, the impracticalities of multiple-prisoner litigation (especially when plaintiffs are incarcerated at different facilities), and prisoners cannot avoid the risk of incurring strikes under 28 U.S.C. § 1915(g). ECF No. 7. As such, the Court struck the two additional plaintiffs (Stafford and Harris) who had not signed the original complaint or filed motions to proceed *in forma pauperis*, and opened new civil cases for these plaintiffs. *Id.*; see also *Stafford v. Basham*, No. 4:22-cv-178-SEP (E.D. Mo. 2022); *Harris v. Basham*, No. 4:22-cv-179-PLC (E.D. Mo. 2022).

On April 27, 2022, the Court granted remaining-plaintiff Reginald Clemons' motion to proceed *in forma pauperis* and ordered the payment of an initial partial filing fee of \$87.37. ECF No. 9 at 3. Plaintiff Clemons paid this initial partial filing fee amount on May 23, 2022. Upon review of Clemons' amended complaint, the Court partially dismissed Clemons' claims under 28 U.S.C. § 1915(e)(2)(B) but issued process against defendant Carl Miller in his individual capacity on Clemons' excessive force claim. ECF No. 13-14.

After issuance of service, counsel entered an appearance for plaintiff Clemons and filed a motion for leave to amend the complaint. ECF Nos. 22-26. The Court granted that motion and a second amended complaint was filed on March 2, 2023. ECF Nos. 27-28. Nine plaintiffs are named in the second amended complaint, including the three original plaintiffs: Reginald Clemons, Steven Stafford, and Wendell Harris. ECF No. 28 at 1. All nine plaintiffs are Missouri state prisoners. *Id.* at 8-9.

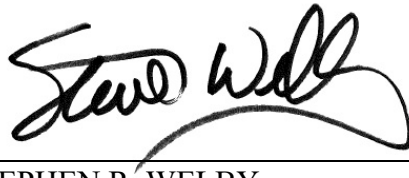
Discussion

For the reasons discussed in the Court's February 14, 2022 Order, multiple prisoner plaintiffs cannot jointly proceed *in forma pauperis* in a matter. *See* ECF No. 7. Therefore, if prisoner Plaintiffs would like to proceed jointly in this case, they need to file a motion to vacate plaintiff Clemons' *in forma pauperis* status in this matter and pay the remainder of the filing fee (\$314.63).¹ However, if Plaintiffs seek to proceed *in forma pauperis*, they should file a notice with the Court informing the Court of this decision. In such case, Plaintiffs will need to proceed in separate civil actions so that filing fees can be collected as required under 28 U.S.C. § 1915(b)(1) for each plaintiff separately. Plaintiffs shall inform the Court within fourteen (14) days on how they would like to proceed in this action.

Accordingly,

IT IS HEREBY ORDERED that **within fourteen (14) days** of this Order, Plaintiffs shall either file a motion to vacate plaintiff Clemons' *in forma pauperis* status and pay the remainder of the filing fee for this matter, or file a notice with the Court informing the Court of their intent to proceed *in forma pauperis* in separate civil actions.

Dated this 7th day of March, 2023.



STEPHEN R. WELBY
UNITED STATES MAGISTRATE JUDGE

¹ The fee for bringing a civil action in this Court is \$402, which includes a statutory filing fee of \$350 and an administrative fee of \$52. *See* 28 U.S.C. § 1914(a) ("The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal, or otherwise, to pay a filing fee of \$350"); 28 U.S.C. § 1914(b) ("The clerk shall collect from the parties such additional fees only as are prescribed by the Judicial Conference of the United States"). Effective December 1, 2020, the Judicial Conference added a \$52.00 administrative fee to the statutory fee for filing a civil action in district court. *See* Par. 14 of the Judicial Conference Schedule of Fees, District Court Miscellaneous Fee Schedule (issued in accordance with 28 U.S.C. § 1914) (effective on Dec. 1, 2020). Because plaintiff Clemons paid \$87.37 towards the filing fee on May 23, 2022, the remaining amount due is \$314.63.